

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

UNDER the Resource Management Act 1991

IN THE MATTER of appeals under Clause 14 of the First Schedule of the Act

BETWEEN

TRANSPOWER NEW ZEALAND LIMITED
(ENV-2018-CHC-26)

FONTERRA CO-OPERATIVE GROUP
(ENV-2018-CHC-27)

HORTICULTURE NEW ZEALAND
(ENV-2018-CHC-28)

ARATIATIA LIVESTOCK LIMITED
(ENV-2018-CHC-29)

WILKINS FARMING CO
(ENV-2018-CHC-30)

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**NOTICE OF PERSON'S WISH TO BE HEARD ON NOTICE OF MOTION
2 June 2020**

Judicial Officer: Judge Borthwick

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WYNNWILLIAMS

**GORE DISTRICT COUNCIL, SOUTHLAND DISTRICT
COUNCIL & INVERCARGILL DISTRICT COUNCIL**
(ENV-2018-CHC-31)

DAIRYNZ LIMITED
(ENV-2018-CHC-32)

H W RICHARDSON GROUP
(ENV-2018-CHC-33)

BEEF + LAMB NEW ZEALAND
(ENV-2018-CHC-34 & 35)

DIRECTOR-GENERAL OF CONSERVATION
(ENV-2018-CHC-36)

SOUTHLAND FISH AND GAME COUNCIL
(ENV-2018-CHC-37)

MERIDIAN ENERGY LIMITED
(ENV-2018-CHC-38)

ALLIANCE GROUP LIMITED
(ENV-2018-CHC-39)

FEDERATED FARMERS OF NEW ZEALAND
(ENV-2018-CHC-40)

HERITAGE NEW ZEALAND POUHERE TAONGA
(ENV-2018-CHC-41)

STONEY CREEK STATION LIMITED
(ENV-2018-CHC-42)

THE TERRACES LIMITED
(ENV-2018-CHC-43)

CAMPBELL'S BLOCK LIMITED
(ENV-2018-CHC-44)

ROBERT GRANT
(ENV-2018-CHC-45)

**SOUTHWOOD EXPORT LIMITED, KODANSHA
TREEFARM NEW ZEALAND LIMITED, SOUTHLAND
PLANTATION FOREST COMPANY OF NEW ZEALAND**
(ENV-2018-CHC-46)

**TE RUNANGA O NGAI TAHU, HOKONUI RUNAKA,
WAIHOPAI RUNAKA, TE RUNANGA O AWARUA & TE
RUNANGA O ORAKA APARIMA**
(ENV-2018-CHC-47)

PETER CHARTRES
(ENV-2018-CHC-48)

RAYONIER NEW ZEALAND LIMITED
(ENV-2018-CHC-49)

**ROYAL FOREST AND BIRD PROTECTION SOCIETY
OF NEW ZEALAND**
(ENV-2018-CHC-50)

Appellants

AND

SOUTHLAND REGIONAL COUNCIL

Respondent

NOTICE OF PERSON'S WISH TO BE HEARD ON NOTICE OF MOTION

Section 291(4), Resource Management Act 1991

To: The Registrar
Environment Court
Christchurch

Name of Person wishing to be heard

- 1 Southland Regional Council wishes to be heard on a notice of motion by Ballance Agri-Nutrients Limited, Federated Farmers of New Zealand (Southland), Horticulture New Zealand, and Ravensdown Limited (**Applicant Parties**) under section 291 of the Resource Management Act 1991 for a ruling that evidence relating to Objectives 1 and 3 (and consequential amendments to other Objectives) of the proposed Southland Land and Water Regional Plan (**pSWLP**) are beyond the scope of the Ngā Rūnanga appeal, and are therefore to be excluded from the Court's consideration.

Date on which notice of motion was served

- 2 The notice of motion was served on Southland Regional Council on 22 May 2020.

Matters to be advanced

- 3 Southland Regional Council wishes to advance the following matters:
 - (a) Evidence relating to proposed changes to Objectives 1 and 3 to make them “korowai objectives”, as set out in Mr McCallum-Clark’s evidence dated 17 April 2020 and 22 May 2020, and any consequential changes to the remaining pSWLP Objectives that are necessary as a result of those changes, is within the scope of Ngā Rūnanga’s appeal.
 - (b) Evidence relating to the elevation of Objectives 1 and 3 above all other Objectives, as suggested by Ms Davidson in her evidence dated 17 April 2020, is beyond the scope of Ngā Rūnanga’s appeal.

- (c) Evidence relating to changes to the remaining pSWLP Objectives (being Objectives 2 and 4-18) that are not consequential changes necessary as a result of the proposed changes to Objectives 1 and 3 to make them “korowai objectives” (as set out in Mr McCallum-Clark’s evidence dated 17 April 2020 and 22 May 2020) is beyond the scope of Ngā Rūnanga’s appeal.
- (d) Accordingly, Southland Regional Council opposes in part the motion sought by the Applicant Parties for the reasons set out below:
- (i) All Objectives in the pSWLP were referred to in Ngā Rūnanga’s original submission, such that it is entitled to lodge an appeal in respect of them.
 - (ii) In its Notice of Appeal, Ngā Rūnanga sought that Te Mana o te Wai be at the forefront of the pSWLP. The ordinary meaning of “forefront” could be taken to mean “the leading or most important position or place”.¹ This supports the contention that Objectives 1 and 3 are overarching and that more weight may be placed on them.
 - (iii) Ngā Rūnanga also raised ki uta ki tai in their Notice of Appeal. Ngā Rūnanga stated that the pSWLP “established ki uta ki tai as the means of managing water and resources”.² It sought amendments to the decisions version of the pSWLP as it considered that some provisions did not currently encourage a ki uta ki tai approach to management. In that regard, the proposed change to make Objective 1 a “korowai objective” would be recognising the importance of that management approach and supporting the Plan’s intent that ki uta ki tai is the means of managing water resources.
 - (iv) Accordingly, potential changes to Objectives 1 and 3 to make them “korowai objectives” (as set out in Mr McCallum-Clark’s evidence dated 17 April 2020 and 22 May 2020), and any consequential changes to the remaining pSWLP

¹ Definition of “forefront”, Oxford Dictionary, retrieved from <https://www.lexico.com/definition/forefront>.

² Ngā Rūnanga Notice of Appeal dated 17 May 2018, at 6.

Objectives that are necessary as a result of those changes, were reasonably and fairly raised in Ngā Rūnanga’s appeal.

- (v) The elevation of Objectives 1 and 3 above all other Objectives, as suggested by Ms Davidson in her evidence dated 17 April 2020, goes beyond what was reasonably and fairly raised in Ngā Rūnanga’s appeal.
- (vi) The changes set out by Ms Davidson in her Statement of Evidence dated 17 April 2020 that relate to Objectives 2 and 4-18, where these are not necessary as a result of the proposed changes to Objectives 1 and 3 (to make them “korowai objectives”), were not reasonably and fairly raised in Ngā Rūnanga’s Notice of Appeal and persons were not put on notice that such amendments were being sought in the appeal.

4 In its Minute dated 27 May 2020, the Court noted that there are two further questions arising from the Notice of Motion dated 22 May 2020 which it would like counsels’ assistance on. For completeness, Southland Regional Council notes that it wishes to be heard in relation to the Court’s questions set out at paragraph [5] of that Minute.



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P A C Maw

Solicitor for Southland Regional Council

Date: 2 June 2020

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